

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 18, 2004

DIVISION ONE

B171494 People (Not for Publication)
v.
Walter Mathew Valcore

The abstract of judgment is to be corrected to reflect a restitution fine of \$200 under Penal Code section 1202.4, subdivision (b)(1), and a parole revocation fine of \$200 under Penal Code section 12022.45, and the trial court is ordered to forward a copy of the corrected abstract to the Department of Corrections. The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B169641 People (Not for Publication)
v.
Alan Tetzlaff

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Suzukawa, J. (Assigned)

DIVISION ONE (Continued)

B177677 G.Z. (Not for Publication)

v.

Superior Court, Los Angeles County
(Department of Children and Family Services, r.p.i.)

Mother's writ petition pursuant to California Rules of Court, rule 39.1B is granted. Let a peremptory writ of mandate issue directing the juvenile court to vacate its August 31, 2004 order terminating reunification services and setting a Welfare and Institutions Code section 366.26 hearing, and to vacate the section 366.26 hearing date of December 14, 2004. At the new Welfare and Institutions Code section 366.21, subdivision (e) hearing, the juvenile court may consider evidence from before and after August 31, 2004.

Mallano, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

B168046 People (Not for Publication)

v.

Chatman

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B171239 People (Not for Publication)
v.
Gabriel, et al.

With respect to defendant Gabriel, the judgment is affirmed. With respect to defendant Felix, the unnumbered condition of probation in the minute order of October 10, 2003, is modified to include additional language (set forth in italics) as follows: “Do not use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia, except with a valid prescription and stay away from places *known by you to be* where users or sellers congregate. Do not associate with *persons known by you to be* drug users or sellers unless attending a drug treatment program.” As modified, the judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B167752 Pacific Stocker (Not for Publication)
v.
Jeffers et al.
Cardinale

The judgment is affirmed. Plaintiff and respondent Pacific Stocker, LLC, is entitled to costs on appeal.

Mallano, J.

We concur: Spencer, P.J.
Suzukawa, J. (Assigned)

DIVISION TWO

B174832 Los Angeles County, D.C.S. (Not for Publication)
v.
Nadine R. et al.

The juvenile court order terminating mother and Ramon's parental rights to Alexis and Monique is reversed and the matter is remanded to the juvenile court with directions that the juvenile court shall direct DCFS to comply with the notice provisions of the ICWA. If Alexis and Monique are determined to be Indian children, a new hearing shall be held. If they are determined not to be Indian children, the order terminating parental rights shall be reinstated, subject to the juvenile court's consideration of any circumstances that may have arisen during this appeal that may affect the outcome. All other orders are affirmed.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION THREE

B175419 People (Not for Publication)
v.
Ramble

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
Aldrich, J.

DIVISION THREE (Continued)

B164703 People
v.
Marky

(Not for Publication)

The judgment is modified to reflect 542 days of actual custody prior to sentencing, to reflect no good time/work time credit and to strike the parole revocation fine. As so modified, the judgment is affirmed. The clerk of the superior court shall prepare and forward to the Department of Corrections an amended abstract of judgment.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B172183 People (Not for Publication)
v.
Edgar M.

The order of wardship is modified by modifying probation condition number 15, to read "Do not associate with anyone known by you to be disapproved of by your parents or the probation officer." As modified, the order of wardship is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B168845 People (Not for Publication)
v.
Lanfor

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

Court convened at 9:00 a.m.

Present: Epstein, Acting P.J., Hastings, J., Curry, J., Grimes, J. (Assigned) and V. Guzman, Deputy Clerk.

Each of the following:

B177586 Edward C. v. SCLA (DCFS)

B177587 Pamela G. v. SCLA (DCFS)

B173945 DCFS v. Rita F.

B170815 People v. Johnson

B173925 DCFS v. Charlin H.

Argument waived, cause submitted.

B174169 People
 v.
 Brown

Merits:

Argued by Kevin D. Sheeby for appellant and by Marc A. Kohm, deputy attorney general for respondent. Cause submitted.

B173600 USA Talks.com, Inc.
 v.
 Moskowitz et al.

Merits:

Argued by Joseph J. Ybarra for appellants and by Nicolas A. Boylan for respondent. Cause submitted.

B172275 National American Insurance Company
 v.
 Century Surety Company

Merits:

Argued by Terry L. Kesinger for appellant and no appearance made by respondent. Cause submitted.

DIVISION FOUR (Continued)

Court in recess.

Court reconvened at 1:30 p.m.

Present: Epstein, Acting P.J., Hastings, J., Curry, J., Grimes, J. (Assigned) and V. Guzman, Deputy Clerk.

B162266 Witas
 v.
 Meyerhoff

Merits:
Argued by Cyril Czajkowskyj for appellant and by Kenneth Watase for respondent. Cause submitted.

B174396 Lenett
 v.
 World Savings Bank et al.

Merits:
Argued by Everett L. Skillman for appellant and by Michelle A. Mierzwa for respondents. Cause submitted.

B174152 Dream Theater (California)
 v.
 Dream Theater (Delaware)

Merits:
Argued by Kristine L. Wilkes for appellants and by Nomi L. Castle for respondents. Cause submitted.

B171498 Samuels
 v.
 Los Angeles County Office of Education

Merits:
Argued by Winston Samuels in propria persona and Warren S. Kinsler for respondent. Cause submitted.

DIVISION FOUR (Continued)

Court in adjourned.

B166932 People (Not for Publication)
v.
Rivas

The judgment is modified to strike the section 12022.5 gun use finding on count one. In all other respects, the judgment is affirmed. The trial court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting this modification. As so modified, the judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

B168982 People (Not for Publication)
v.
Saldana

That portion of the judgment which imposes a 15-year minimum parole eligibility date pursuant to Penal Code section 186.22, subdivision (b)(4) as to counts three, four, and five is reversed. The judgment is to be modified to reflect that appellant is subject to a seven-year minimum parole eligibility date pursuant to Penal Code section 3046, subdivision (a)(1) as to counts three, four, and five. The judgment is affirmed in all other respects.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

DIVISION FIVE

B175370 Esquire Deposition Services (Not for Publication)
 v.
 William Manus et al.

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

We concur: Grignon, J.
 Armstrong, J.

B176481 People (Not for Publication)
 v.
 Dennis L. Fortin

The appeal is dismissed.

Turner, P.J.

We concur: Grignon, J.
 Armstrong, J.

DIVISION SIX

B169161 People (Not for Publication)
 v.
 Gutierrez

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
 Perren, J.

November 18, 2004 (Continued)

DIVISION SIX (Continued)

B171172 Pregartner (Not for Publication)
v.
David

The judgment is affirmed. Costs on appeal are awarded to respondent.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

[illegible]

We reverse and remand with instructions that the court vacate the credits it gave Fernando for electronic monitoring time. In all other respects, the judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B174621 Brown (Not for Publication)
v.
Buster

The judgment is affirmed. Brown to bear costs.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

November 18, 2004 (Continued)

DIVISION SIX (Continued)

B167543 People (Certified for Publication)
v.
Callahan

The order granting Callahan's motion for new trial is affirmed.

Perren, J.

We concur: Gilbert, P.J.
Coffee, J.

B170586 Short (Not for Publication)
v.
Community Memorial Hospital

The judgment is affirmed. Costs to respondent.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

DIVISION SEVEN

Each of the following:

B167017 General Casualty Ins. Co. v. W.C.A.B. (Calif. Insurance Guarantee Assn.)

B167540 American Home Assurance Co. v. W.C.A.B. (Calif. Insurance Guarantee)

B167541 Remedy Temp, Inc. v. W.C.AB. (California Insurance Guarantee Assn.)

B167542 Jacuzzi, Inc. v. W.C.A.B. (California Insurance Guarantee Assn.)

Filed order granting petitions for rehearing.